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## Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty and ever-living God, who is our light and our salvation, because of You we have a future and a hope. Your loving kindness is from everlasting to everlasting. Thank You for our opportunities to make this world better and to be instruments of Your love. Make us fit ambassadors of Your kingdom, as we invest in eternity.

Today, teach our Senators what You want them to do. Help them to trust Your wisdom and depend upon Your

guidance. May they prosper and be in health even as their souls prosper.

In this Thanksgiving season, we praise You because You are our rock, our fortress, our strength, our salvation, our savior, and our shield. We pray in Your holy Name. Amen.

### PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. This morning the Senate will conduct a period for morning business until 10:30 a.m. Following morning business, we expect to begin the Energy Policy Act conference report. If we are unable to reach consent for a time limit on the Energy conference report, it may be necessary to file cloture during today's session. In all likelihood, the Senate also will be taking up other conference reports as they become available, as well as nominations

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By order of the Joint Committee on Printing.

ROBERT W. NEY, *Chairman*.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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on the Executive Calendar during tomorrow's session. Therefore, rollcall votes should be expected throughout the day. Leadership on both sides of the aisle has notified Senators that in all likelihood it will be necessary for us to work through the weekend. We are on target to complete our work this week, but it looks as though we will be in session working on Saturday and perhaps Sunday to complete action on the Energy and Medicare conference reports, as well as the appropriations measures.

#### RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The assistant minority leader.

Mr. REID. Mr. President, it is my understanding on the conference report it is privileged, but it could require a vote. On our side, we have no request for a vote to get the conference report on the floor. So on our side we do not need a vote, and I want the leader to know that. We worked last night with a couple of people who thought a vote would be necessary, but they no longer believe it is necessary, so we are ready to move to that as soon as it is here.

Mr. FRIST. Mr. President, responding through the Chair, we very much appreciate that because we are very eager to get to this Energy conference report and want to do it as soon as possible this morning. I have a couple of colleagues to talk to. A final decision will be made whether or not a vote will be required. If so, I would expect to have that vote very shortly after morning business.

#### RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes of the time under the control of the Democratic leader or his designee, and the second 30 minutes of the time under the control of the Senator from Texas, Mrs. HUTCHISON, or her designee.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HAPPY 80TH BIRTHDAY

Mr. SCHUMER. First, I want to wish the President of the Senate a happy

80th birthday. I come from New York. We pride ourselves on good salmon. At his little gathering last night, the Alaska salmon looked beautiful and tasted as good as any salmon I ever tasted. I want to wish him a happy birthday and thank him for celebrating it with all of us.

#### ENERGY POLICY ACT AND MTBE

Mr. SCHUMER. Mr. President, what I would like to talk about today is the Energy bill that is coming upon us. I want to talk about one provision in there which I find to be one of the most abusive provisions that I have ever seen come down the pike, and that is the provision of a safe harbor for the MTBE producers.

As everyone knows, we have found that while MTBEs did work at cleaning air, they also worked at polluting the groundwater. What has happened in my State and in 38, I believe it is, of the 50 States is that when the MTBEs were spilled, they went into well water, into aquifers, and basically made the water undrinkable and unusable. This has left thousands and thousands of families in terrible shape, probably tens of thousands, and it is going to grow. It is going to be millions of families down the road because we are just learning of the extent of the MTBE spills.

We are being very generous, even without this safe harbor, to the MTBE producers. We are giving them \$2 billion to shut down. How many small business men and women in America, when they shut down, get a Government subsidy? I think very few. But we are giving it to them and I am not arguing against that right now, as much as I oppose it.

We have also given them a safe harbor. We have said to them that you cannot be sued, and we have set a retroactive date of September 5 in this Energy bill. I should not say "we." Two people who crafted the Energy bill did it. Nobody else had much say.

What will this mean? Let me tell you the situations I have found on Long Island and the Hudson Valley, in Orange County and Dutchess County, throughout my State.

MTBEs were spilled and have leaked into either individual wells of family homes or into aquifers upon which towns and villages depend. The water supply is gone. The people cannot use the water or drink the water. What does that mean? The least of it is they need bottled water to do everything—to drink, to brush their teeth, et cetera. They have to go out and buy bottled water. That is a significant expense to these families.

In most of the places I visited, the homes are modest. They are small homes. They are typical American families who have worked their lives and their little piece of the rock is their home.

Worse, however, is that you can't even take a shower because the MTBEs, it is said, give off some kind of

vapor that could be very harmful if you shower regularly. So the families have to go to neighbors. Since often the spills are in whole tracts of land, it is not just walking across the street and knocking on the door. In some cases that is possible because some houses are not polluted and some are, that are next to each other. But usually they have to get in the car and drive the kids, drive themselves to take a shower. That renders their home—if not valueless, it knocks out their investment.

We have lots of people struggling with these MTBEs. What they have done, of course, is gone to the people who have created the problem. They have gone to the service station owner who might have spilled the gasoline, or the pipeline that ruptured. But the bottom line is, in most cases those people are out of business or not able to help.

So what happened was, because of lawsuits—and I am not one of the Democrats who is the leading advocate for the trial lawyers, but I do believe there are instances where lawsuits are the only solution. They went to oil companies with lawsuits, one in California, several in other parts of the country, and showed not only that the companies knew MTBEs were harmful but, worse, they didn't tell anybody.

If in the mid-1980s we found that MTBEs were polluting the groundwater and permanently doing such severe damage, wouldn't it have made sense for the oil companies and the producers to send notifications to the service stations, to the pipelines, to the trucking companies, and say: If this stuff spills, it could be dangerous. Be very careful. Here is what you do in the immediate case that there is a spill.

None of that happened. It is reminiscent of the cigarette industry. We knew cigarettes were harmful. Most people sort of had an inkling after 1965. I, for one, believe that just to do a lawsuit because you later find a product is harmful is not the strongest case. But in the cigarette industry, and now with the MTBEs, when the producer knew it and not only continued to produce it but didn't let the information out, that to me is egregious because you could have prevented a whole lot of harm.

So what we had throughout New York was the following. We had lawsuits, and even in many of the cases when it wasn't lawsuits, the oil companies were beginning to come forward. In Fort Montgomery, right near West Point, Orange County, are a lot of retirees from the military, in lovely homes near the banks of the Hudson River. The oil companies paid to put on these filters that would prevent the MTBEs from going into the drinking water, the bathing water, et cetera. In some places, up in Dutchess County, they were beginning to negotiate with the law firm. The town would pay some money, the oil companies would pay some money, and they would put in a water system of piped-in water because the entire drinking water, under a large number of homes, was gone.